

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 14

CHALLENGE UNLIMITED, INC., RESIDENTIAL
OPTIONS, INC., AND SPECIALIZED PROFESSIONAL
SERVICES, INC., d/b/a ALPHA INDUSTRIES

Employer

and

Case 14-RC-12507

AFSCME COUNCIL 31, AFL-CIO (AMERICAN
FEDERATION OF STATE, COUNTY &
MUNICIPAL EMPLOYEES COUNCIL 31)

Petitioner

ORDER DISMISSING PETITION

This order is for the purpose of dismissing the petition due to the fact that subsequent to an election, the filing of objections and setting aside that election and directing a new one, the unit was eliminated. As a result, a rerun election is not warranted.

Pursuant to the petition in Case 14-RC-12507 filed on April 27, 2004, the Regional Director directed an election in three bargaining units: Residential Unit, Developmental Training Unit, and Production Unit. The election was held on July 16, 2004. In the Residential Unit, the tally of ballots showed 26 for and 68 against the Petitioner, with 1 challenged ballot, an insufficient number to affect the results. In the Developmental Training Unit, the tally of ballots showed 13 for and 28 against the Petitioner, with 5 challenged ballots, an insufficient number to affect the results. In the Production Unit, the tally of ballots showed 25 for and 42 against the Petitioner, with no challenged ballots.

Timely objections to conduct affecting the results of the election were filed by the Petitioner, and a hearing was held on September 22 and 23, 2004, to receive evidence relevant to the objections. On November 30, 2004, the Regional Director issued a Supplemental

Decision, Order and Direction of Rerun Election and Certification of Results wherein the undersigned adopted the Hearing Officer's findings and recommendations and directed a rerun election in the Production Unit and Certified the Results of the election in the Residential and Developmental Training Units.

On December 15, 2004, the Petitioner filed charges in Case 14-CA-28104, alleging that the Employer unlawfully reorganized its business and laid off employees in the Production Unit; and by Order of the same date, the Acting Regional Director suspended the processing of Case 14-RC-12507 pending final disposition of the charge.

After careful investigation and consideration, the undersigned concluded that the Employer's reorganization of its operations and subsequent lay offs was done for legitimate business reasons. By letter dated February 25, 2005, the undersigned advised the parties that he was refusing to issue complaint in Case 14-CA-28104, and no appeal of this decision was filed.

Where the investigation in Case 14-CA-28104 disclosed that the Employer ceased the operations for which the Production Unit employees were performing work, laid off most Production Unit employees, and transferred the remaining Production Unit employees into the Developmental Training Unit, and where the Employer has no plans for the foreseeable future to recommence such operations, or to recall or reinstate any of those employees into the Production Unit, there is no longer a collective-bargaining unit in the Production Unit, and a question concerning representation no longer exists.

The Regional Director having carefully considered the matter,

IT IS HEREBY ORDERED that the petition is dismissed as far as it relates to the Production Unit employees.

Your right to Request Review: The National Labor Relations Board Rules and Regulations permit you to obtain a review of this action by filing a request for review with the National Labor Relations Board. If you wish to file a request for review, your attention is directed to the following:

Request for Review Due Date: The request for review must be received by the National Labor Relations Board in Washington, D.C. by the close of business at 5 p.m. (EDT) on **April 29, 2005.** However, if you mail the request for review, it will be considered timely if it is postmarked no later than one day before the due date. The request for review **MAY NOT** be filed by facsimile transmission.

Extension of Time to File Request for Review: Upon good cause shown, the Board may grant special permission for a longer period to file the request for review. Any request for an extension of time should be submitted to the Executive Secretary of the Board in Washington, D.C., and **must** be received no later than the request for review due date indicated above. The request for an extension of time may be filed by mail or by facsimile transmission. The fax number is (202) 273-4270. A copy of any request for an extension of time should be sent to me.

Request for Review Contents: The request for review must contain a complete statement setting forth the facts and the reasons why you want a review of the decision to dismiss your petition.

Address for Request for Review: The request for review should be addressed to the Executive Secretary, National Labor Relations Board, Franklin Court Building, 1099 14th Street, N.W., Washington, D.C. 20570.

Notice of Other Parties of Request for Review: You should send a copy of the request for review to me and to the other parties shown below.

April 15, 2005

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